

CR 08 00076 JW

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

**PVT
E-FILING**

FILED

FEB 13 2008

**CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE**

THE UNITED STATES OF AMERICA

vs.

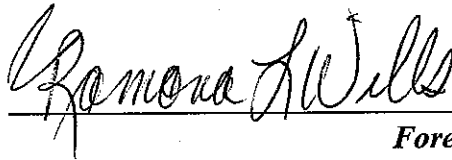
FRANK GEMBECK, JR.

INDICTMENT

COUNT ONE: 18: U.S.C. Section 2252(a)(2): Receipt of Child Pornography;

COUNT TWO: 18 U.S.C. Section 2252(a)(4)(B): Possession of Child Pornography

A true bill.



Foreperson

Filed in open court this 13th day of February

A.D. 2008

arrest warrant

Bail. \$ NO Bail


United States Magistrate Judge



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FILED

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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
FRANK GEMBECK, JR.,
Defendant.

CR

No. CR

08 00076 JWPVT

VIOLATIONS:

18 U.S.C. § 2252(a)(2)(A) - Receipt of
Child Pornography; 18 U.S.C. §
2252(a)(4)(B) - Possession of Child
Pornography; 18 U.S.C. §§ 2253(a)(1) &
(a)(3) - Criminal Forfeiture

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

COUNT ONE

On or about May 12, 2006, in the Northern District of California, the defendant,

FRANK GEMBECK, Jr.,

did knowingly and intentionally receive child pornography that had been transported or shipped
in interstate commerce by any means, including by computer, in violation of Title 18, United
States Code, Section 2252(a)(2)(A) and 2252(b)(1).

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INDICTMENT

COUNT TWO

On or about May 12, 2006, in the Northern District of California, the defendant,

FRANK GEMBECK, Jr.,

did knowingly and intentionally possess matter which contains any visual depiction of a minor engaging in sexually explicit conduct that has been mailed, or shipped or transported in interstate or foreign commerce by any means including by computer in violation of Title 18, United States Code, Section 2252(a)(4)(B) & 2252(b)(2).

FORFEITURE ALLEGATION: (18 U.S.C. §§ 2253(a)(1) and (a)(3) - Criminal Forfeiture)

Upon a conviction for the offense alleged above, the defendant,

FRANK GEMBECK Jr.,

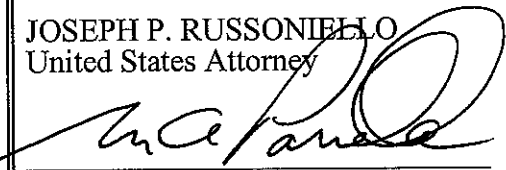
shall forfeit to the United States, pursuant to Title 18, United States Code, Section 2253(a)(1) and (a)(3) all visual depictions described in Title 18, United States Code Section 2252A, and all property, real or personal, used or intended to be used to commit or promote the commission of the offenses of conviction, including but not limited to a Dell Dimension desktop personal computer, model 4700, serial number OX6252-70821-4AP-G6MQ; Fuji Film DVD+R labeled "Y1 AK 7-28-05", Fuji Film DVD+R labeled "Y2 AK 7-28-05", Fuji film DVD+R labeled "Y3 AK 7-28-05" , and any other computer storage media that were seized from the defendant's residence.

Dated: February 13, 2008

A TRUE BILL.


FOREPERSON

JOSEPH P. RUSSONIELLO
United States Attorney


MATTHEW A. PARRELLA
Chief, San Jose Branch Office

(Approved as to form: 
AUSA Richard C. Cheng

INDICTMENT

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 18 U. S. C. § 2252(a)(2)(A) - Receipt of Child Pornography-
 Mandatory minimum 5 years imprisonment, but not more
 than 20 years.

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

 PENALTY: (18 U. S. C. § 2252(a)(2)(A) Class C Felony); \$250,000 fine; 3 years supervised release; \$100 mandatory special assessment.
 18 U. S. C. § 2252(a)(4)(B) - Possession of Child Pornography-
 10 years imprisonment (Class C Felony); \$250,000 fine; 3 years supervised release; \$100 mandatory special assessment.

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

DEFENDANT - U.S.

FRANK GEMBECK, JR.

DISTRICT COURT NUMBER

CR 08 00076 JW

PVT

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

San Jose FBI - SA Wade Luders

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a
 pending case involving this same
 defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

 Name and Office of Person
 Furnishing Information on this form JOSPEH P. RUSSONIELLO

☒ U.S. Attorney ☐ Other U.S. Agency

 Name of Assistant U.S.
 Attorney (if assigned) RICHARD CHENG
IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

 1) ☒ If not detained give date any prior
 summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed
DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: No Bail

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

Date/Time:

Before Judge:

Comments:

 * Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment